

AFFIDAVIT OF FRANCIS MCGOVERN
TENDERED PURSUANT TO FED. R. CIV. P. 53

STATE OF North Carolina
COUNTY OF Durham) ss.

AFFIDAVIT

Francis McGovern, being first duly sworn according to law, states the following:

1. I am an attorney at law, duly licensed to practice law in the State of Texas. My bar admissions are as follows:

1. Texas
2. Virginia
3. Alabama
4. District of Columbia

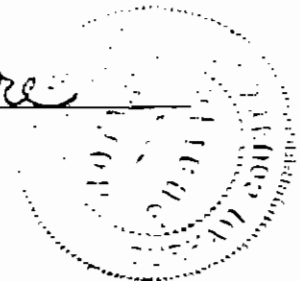
2. I have thoroughly familiarized myself with the issues involved in the Multidistrict Litigation captioned 1456, Civil Action No. 01-12257-PBS. As a result of my knowledge of that case, I can attest and affirm that there are no grounds for disqualification under 28 U.S.C. § 455 that would prevent me from serving as the Special Master in the captioned matter.

FURTHER AFFIANT SAYETH NAUGHT.

Francis McGovern

Sworn to before me and subscribed in my presence this day of November 15, 2006.

Jina S. Moore
Notary Public



Curriculum Vitae

FRANCIS E. MCGOVERN

November 2006

CONTACT INFORMATION

Duke University School of Law
Corner of Science & Towerview Drives
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Tel: 919.613.7095 Fax: 919.613.7165
Assistant Tel: 919.613.8525
mcgovern@law.duke.edu

EDUCATION

B.A., 1967, Yale University
J.D., 1973, University of Virginia

MILITARY

U.S. Marine Corps, Captain, 1968-1971

EMPLOYMENT

Professor of Law, Duke University School of Law, 1997-present
Visiting Professor of Law (Spring), Boalt Hall School of Law, University of California at Berkeley School of Law, 2000-2004; 2007
Senior Fellow, Stanford Center on Conflict and Negotiation, Stanford Law School, 2000-present
Visiting Scholar, Harvard Law School, 2005
Visiting Professor of Law, Stanford Law School, 1999-2000
Francis H. Hare Professor of Torts, The University of Alabama School of Law, 1987-1996
Visiting Professor of Law, University of Fribourg (Switzerland), 1990-1991
Visiting Professor, Duke University School of Law, 1989
Professor of Law, The University of Alabama School of Law, 1985-1987
Senior Associate and Research Fellow, Project on Negotiation, Harvard Law School, 1985-1987
Visiting Professor, Massachusetts Institute of Technology, 1984-1985
Visiting Professor of Law, Boston University School of Law, 1983-1985
Professor of Public Health Law, University of Alabama-Birmingham, 1979-1990
Professor of Law, 1980-1984; Associate Dean, 1980-1982; Assistant Dean, 1978-1979; Associate Professor of Law, 1977-1980; Cumberland School of Law, Birmingham, Alabama
Attorney, Vinson & Elkins, Houston, Texas, 1973-1977

BAR ASSOCIATIONS

Alabama
District of Columbia
Texas
Virginia

AWARDS AND HONORS

- Honorary Degree, Doctor of Laws, 2005, Averett University
- Outstanding Achievement Award, CPR Legal Program Awards for Excellence and Innovation in Alternative Dispute Resolution, 1986
- First Prize – Articles, CPR Legal Program Awards for Excellence and Innovation in Alternative Dispute Resolution, 1986
- Lifetime Achievement Award, American College of Civil Trial Mediators, 2002
- Distinguished Lecturer, University of Tennessee Law School, 2002
- Schwartz Lecturer, Ohio State University, Moritz College of Law, 2003
- Tarheel Award, Raleigh News and Observer, 2004

ADVISORY AND OTHER POSITIONS AND MEMBERSHIPS

Academy of Court-Appointed Masters

President

American Bar Association

Member, Mass Torts Commission

Member, Council, Torts and Insurance Practice Section

Chairman, Committee on Professional Issues, Torts and Insurance Practice Section

Member, Task Forces on Initiatives and Referenda and Litigation Expense, Torts and Insurance Practice Section

Reporter, Special Committee on Punitive Damages, Litigation Section

American Law Institute

Member

Advisor, Complex Litigation Project

Averett University

Member, Board of Trustees

Chairman, Academic Affairs Committee

Brookings Institute, Member, Working Group on Civil Justice Reform

Carnegie Commission, Member, Task Force on Science and Technology in Judicial and Regulatory Decision Making

Celotex Asbestos Settlement Trust, Board Member

Center for Public Resources

Academic Sustaining Member and Consultant

Member, Judicial Panel

Conference of Chief Justices, Advisor, Mass Tort Litigation Committee

Consensus Building Institute, Board Member

Federal Judicial Center, Consultant, Asbestos Litigation Seminars

Fibreboard Asbestos Compensation Trust, Trustee

Judicial Conference of the United States, Working Group on Mass Torts, Advisor

Manual for Complex Litigation 2d, Technical Advisor, Board of Editors

National Mock Trial Championship Team, Advisor, 1981

National Center for State Courts, Senior Advisor

U.S. Judicial Conference, Reporter, Court Administration and Case Management Committee

SPECIAL MASTER, COURT EXPERT, MEDIATOR, or NEUTRAL

Academy of Court-Appointed Special Masters (ACAM), President

A.H. Robins Bankruptcy, Richmond, Virginia

Abate v. ACandS, Inc., Baltimore, Maryland

Abrams v. GAF, Pascagoula, Mississippi

Agabekov v. Lucifer Lighting Co., New York, New York and Geneva, Switzerland

Ahearn v. Fibreboard, Tyler, Texas

A.L.U. Textile v. Texaco Chemical, Passaic, New Jersey

Amatex Bankruptcy, Philadelphia, Pennsylvania

ASG, Washington, D.C.

In the matter of Bear Sterns, New York, New York

Hanks v. Big Lots, Houston, Texas

Blue Cross/Blue Shield of Mississippi, Inc. v. Louisiana Health Service and Indemnity
Company, Baton Rouge, Louisiana

Celotex Bankruptcy, Tampa, Florida

Combustion Engineering Bankruptcy, Wilmington, Delaware

Dow Chemical v. Firemen's Fund, Bay City, Michigan

Dow Corning Bankruptcy, Bay City, Michigan

Dresser Bankruptcy, Pittsburgh, Pennsylvania

Federal-Mogul Bankruptcy, Wilmington, Delaware

Gibbs v. Lobit, Houston, Texas

Global Research Analyst Settlement Distribution Fund, New York, New York

HealthSouth Securities Litigation, Birmingham, Alabama

Jenkins v. Raymark, Marshall, Texas

Linscomb v. Pittsburgh-Corning, Beaumont, Texas

Manville Bankruptcy, New York, New York

MCC Bankruptcy, Wilmington, Delaware

In re: N. Ray, Hipps Road, Jacksonville, Florida
National Gypsum Bankruptcy, Dallas, Texas
Newman v. Stringfellow, Riverside, California
Nez Perce Tribe & Idaho Power Co., Boise, Idaho
In re: Ohio Asbestos Litigation, Cleveland, Ohio
Owens Corning Bankruptcy, Wilmington, Delaware
In re: Passaic Fire Litigation, Newark, New Jersey
Patrick v. Allen, New York, New York
In re: Phenylpropanolamine (PPA) Products Liability Litigation, Seattle, Washington
In the matter of Prudential Equity Group, Boston, Massachusetts
PSI of Indiana v. Exxon, Indianapolis, Indiana
In re: Silicone Gel Breast Implants, Birmingham, Alabama
Smith v. Hughes Aircraft, Tucson, Arizona
Snake River Basin Adjudication, Twin Falls, Idaho
In the matter of Tribes v. CFI Limited Partnership
UNR Bankruptcy, Chicago, Illinois
Underwriters at Lloyd's v. McDermott, New Orleans, Louisiana
United Nations Compensation Commission, Geneva, Switzerland
United States v. Michigan, Kalamazoo, Michigan
United States v. Thomas Solvent Company, Battle Creek, Michigan
Upjohn v. Aetna, Kalamazoo, Michigan
Valenzuela v. Hughes Aircraft Company, Tucson, Arizona
Wilhoite v. Olin Corporation, Birmingham, Alabama
W.R. Grace Bankruptcy, Wilmington, Delaware
Woodman v. United States, Jacksonville, Florida
Young v. Pierce, Tyler, Texas

BOOKS

The Preparation of a Product Liability Case, with Scott Baldwin and Francis Hare, Jr., Little, Brown and Company (1981 and 2d ed. 1993)
Successful Litigation Techniques: Student Edition, with Joseph Kelner, Matthew Bender and Company (1981)

ARTICLES

"Challenges Faced by Courts in Chapter 11 Filings by Companies with Asbestos Liabilities,"
____ Delaware Lawyer ____ (2006)
"The Evolution of Asbestos Bankruptcy Trust Distribution Plans," 61 New York University
Annual Survey of American Law Vol. 62, Issue 2 (2006)
"A Model State Mass Tort Settlement Statute," 80 Tulane Law Review 1809 (2006)
"A Proposed Settlement Rule for Mass Torts," 74 UMKC (University of Missouri Kansas City)

Law Review 623 (2006)

"A Model Mass Tort: The PPA Experience," 54 Drake Law Review 621 (2006)

"Mediation of the Snake River Basin Adjudication," 42 Idaho Law Review 547 (2006)

"Common Themes and Unintended Consequences in Class Action Reform," 83 Washington University Law Quarterly 1107 (2006)

"The What and Why of Claims Resolution Facilities," 57 Stanford Law Review 1361 (2005)

"Compensation Schemes and Dispute Resolution Mechanisms: Beyond the Obvious," 21 Negotiation Journal 231 (2005)

"The Future of Judicial Masters," 31 William Mitchell Law Review 1252 (2005)

"Judicial Ethics Meet Political Reality," The Benchers (American Inns of Court), Nov-Dec 2004

"Asbestos Legislation II: Section 524(g) Without Bankruptcy," 31 Pepperdine Law Review, 233-260 (2004)

"Asbestos Legislation I: A Defined Contribution Plan," 71 Tennessee Law Review 155 (2003)

"Deceptive Trade Practices Litigation: Context and Procedural Standards," Manhattan Institute Conference Series (October 2003)

"Mass Torts: Lessons in Competing Strategies and Unintended Consequences," 2 Civil Action (2003)

"Litigation as an Alternative to Legislation in Achieving Public Health Reform," XXIII La Revue Tocqueville (2002)

"Multiparty Disputes: Managing Variables Key to Successful Arbitration," 9 Dispute Resolution Magazine 3-4 (Fall 2002)

"The Tragedy of the Asbestos Commons," 88 Virginia Law Review 1721 (2002)

"Settlement of Mass Torts In a Federal System," 16 Wake Forest Law Review 102 (2002)

"Foreword: Complex Litigation at the Millennium," Special Editor, 64 Law & Contemporary Problems 1 (Spring/Summer 2001)

"Toward a Cooperative Strategy for Federal and State Judges in Mass Tort Litigation," 148 Pennsylvania Law Review 1867 (2000)

"Class Actions and Social Issue Torts in the Gulf South," 74 Tulane Law Review 1655 (2000)

"Strategic Mediation," Dispute Resolution Magazine, Summer 1999, 4

"Beyond Efficiency: A Bevy of ADR justifications," Dispute Resolution Magazine, Summer 1997, 12.

"The Defensive Use of Federal Class Actions in Mass Torts", 39 Arizona Law Review 595 (1997)

"Rethinking Cooperation among Judges in Mass Tort Litigation," 44 UCLA Law Review 1851 (1997)

Book Review, 95 Michigan Law Review (1997) [reviewing Jack B. Weinstein, *Individual Justice in Mass Tort Litigation* (1996) and Michael D. Green, *Bendectin and Birth Defects: The Challenges of Mass Toxic Substances Litigation* (1996)]

"Implementing a Taint Test to Address the Problems Raised by Compelled Disclosure," 59 Law & Contemporary Problems 185 (1996)

"An Analysis of Mass Torts for Judges," 73 Texas Law Review 1821 (1995)

- "Looking to the Future of Mass Torts: A Comment on Siliciano and Schuck," 80 Cornell Law Review 1022 (1995)
- "The Intellectual Heritage of Claims Processing at the United Nations Compensation Commission," in *The United Nations Compensation Commission: Thirteenth Sokol Colloquium* (Richard B. Lillich ed., 1995)
- "Introduction: Models for Managing Mass Tort and Insurance Coverage Litigation," in *Managing Complex Litigation: Procedures and Strategies for Lawyers and Courts*, American Bar Association (1992)
- "Lessons from U.S. Alternative Dispute Resolution," *La médiation: un mode alternatif de résolution des conflits?*, Schulthess Polygraphischer Verlag Zürich (1992)
- "Models for Managing Mass Tort and Insurance Coverage Litigation," in *Managing Modern Litigation: Learning to Live With New Judicial Controls and New Trial Tools*, American Bar Association (1991)
- "The Cycle of Mass Tort Litigation," Yale Law School Program in Civil Liability (1990)
- "The Alabama DDT Settlement Fund," 53 Law & Contemporary Problems 61 (1990)
- "Foreword: Claims Resolution Facilities and the Mass Settlement of Mass Torts," 53 Law & Contemporary Problems 1 (1990)
- "An Overview of Specialized Applications of ADR" in *Handbook of Alternative Dispute Resolution*, State Bar of Texas (1990)
- "Resolving Mature Mass Tort Litigation," 69 Boston University Law Review 659 (1989)
- "The Discovery Survey," with E. Allan Lind, 51 Law & Contemporary Problems 51 (1988)
- "Moving the Pig Through the Python - Multiple Approaches to Resolving Case Management Problems in Toxic Tort Litigation," in SMU Products Liability Institute, Matthew Bender and Company (1988)
- "Use of Masters and Magistrates in Complex Litigation," in *ADR and the Courts: A Manual for Judges and Lawyers*, Butterworth (1987)
- "Court Appointed Experts: An Overview," in *ADR and the Courts: A Manual for Judges and Lawyers*, Butterworth (1987)
- "Toward a Functional Approach for Managing Complex Litigation," 53 Chicago Law Review 440 (1986)
- "Managing Complex Litigation - Old and New Devices and Techniques," in SMU Products Liability Institute: Evidence and Tactics in the Product Liability Case, Matthew Bender and Company (1984)
- Book Review, 4 Environmental Impact Assessment Review 597 (1983) (reviewing James K. Sebenius, *Negotiating the Law of the Sea: Lessons in the Art and Science of Reaching Agreement* (1984))
- "The Organization of Multiple Party Litigation: Class Actions and Multidistrict Litigation," in SMU Products Liability Institute, Matthew Bender and Company (1983)
- "Management of Multiparty Toxic Tort Litigation: Case Law and Trends Affecting Case Management," 19 Forum 1 (1983)
- "Toxic Substances Litigation in the Fourth Circuit," 16 Richmond Law Review 247 (1982)

"The Alabama Extended Manufacturer's Liability Doctrine," Alabama Pattern Jury Instructions - Civil, Lawyers Co-operative Publishing Company (1982)

"The Variety, Policy and Constitutionality of Product Liability Statutes of Repose," 30 American University Law Review 579 (1981)

"The Status of Statutes of Limitations and Statutes of Repose in Product Liability Actions: Present and Future," 16 Forum 416 (1981)

SELECTED SPEECHES

A.A. White Foundation Alternative Dispute Resolution Program

Academy of Court-Appointed Masters (ACAM)

Aetna Alternative Dispute Resolution Program

Alabama Bar Institute for Continuing Legal Education Programs

Alabama Judicial College Programs

American Association of Law Schools Annual Meetings and Torts Workshop

American Bankruptcy Institute Programs

American Bar Association Annual Meetings, Mid-Winter Meeting and Special Programs

American College of Civil Trial Mediators

American College of Trial Lawyers Annual Meeting

American Enterprise Institute

American Law Institute - American Bar Association Programs

American Society of International Law Regional Meeting, SOKOL Colloquium on Private International Law

American Society of Plastic and Reconstructive Surgeons Annual Meeting

Andrews Publications Seminars

Anglo-American Exchange Program

Association of Analytic Chemists Annual Meeting (AOAC International)

Association of American Law Schools

Association of the Bar of the City of New York Programs

Association of Trial Lawyers of America Annual Meetings and National Colleges

Boston University Law School Programs

Center for Public Resources Conferences and Annual Meetings

Columbia University Seminar on Toxic Substances Litigation

Conference of State Supreme Court Chief Justices Annual Meetings

Conservation Foundation Annual Meeting

Cornell Law School Class Action Seminar

Cour de Cassation Seminars

Delaware Judges Association Annual Meetings

Duke Judging Science Program

Federal Judicial Center National Programs, Seminars and Special Programs

Federalist Society

The Ford Foundation National Conference for Judges and Masters Involved in Western
General Stream Adjudications
Fordham Law Review National Symposium on Civil Justice Issues
Fox Leadership Program, University of Pennsylvania
Georgetown University Medical and Law Centers Program for Science and Law
General Motors Corporation Legal Seminars
Harris-Martin Asbestos Conference
Harvard Law School
Harvard Program on Negotiation
Institute des Hautes Études Sur La Justice Judicial Seminars and Programs
Institute for Law & Economic Policy (ILEP)
Institute Suisse de Droit Comparé Mediation Seminar
International Conference on Iraq-Kuwait War
Law and Society Annual Meetings
Louisiana State Bar Association Annual Meeting and Programs
Louisiana State University Law Review Admiralty Symposium
Manhattan Institute Conference Series
McCammon Group Program
Massachusetts Institute of Technology Ocean Conflict Resolution Conference
Mealey's Asbestos Conferences
Mealey's Wall Street Forum on Mass Torts
Montenegro Law School Program
National Academy of Sciences Programs
National Association of Women Judges Annual Meeting
National Conference of Local Defense Associations Annual Meeting
National Conference on Dispute Resolution and the State Courts
National Conference on the Future of the Courts
National Conference on Mass Torts
National Institute for Dispute Resolution Board Meeting
National Judicial College Programs
New York Law School Seminar
New York University Conference on Class Actions
North Carolina Bar Association Dispute Resolution Program
Northwestern School of Law Dispute Resolution Institute
Pennsylvania Judges Association Annual Meeting
Pepperdine Law School Programs
Practicing Law Institute Programs
Product Liability Advisory Council Program
The Rand Institute for Civil Justice Seminars
Securities and Exchange Commission
Sonoma State University

Southeastern Corporate Law Institute Annual Programs
Southern Methodist University Personal Injury and Products Liability Symposiums
Stanford Law School Program on Mass Torts
UCLA Law Review Symposium on Alternative Dispute Resolution
United States-Canada Exchange Program
United States Judicial Conference Advisory Committee on Rules
United States Judicial Conference Federal Jurisdiction Committee
United States Judicial Conference Standing Committee on Rules
United States Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth and Eleventh Circuit
Court of Appeals Judicial Workshops
United States Third, Fifth, and Eighth Circuit Courts of Appeals Judicial Conferences
University of Alabama Law Review Symposium on the Civil Justice Reform Act of 1990
University of Arizona Communication School Conference on Trial Advocacy
University of Arizona Law Review Symposium on Class Actions
University of California—Hastings, School of Law
University of California—San Francisco, School of Law
University of Chicago Legal Forum Program on Juries
University of Colorado School of Law
University of Houston Law Center
University of Kyoto, Symposium on Asbestos Litigation
University of Maryland School of Law Mass Tort Seminar
University of Mississippi College of Law
University of Missouri—Kansas City
University of Pennsylvania Law School Programs
University of San Francisco School of Law
University of Southern California School of Law Seminar
University of Texas at Austin School of Law
University of Virginia School of Law Seminars
Villanova Law Review Mass Tort Symposium
Yale Law School Conferences and Seminars